

## **Board Administration and Regulatory Coordination Unit**

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### **Division 3. Air Resources Board**

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### **Chapter 1. Air Resources Board**

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### **Subchapter 1.25. Administrative Procedures–Hearings**

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### **Article 4. Administrative Hearing Procedures for Review of Citations**

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### **Subarticle 11. Reconsideration by the Executive Officer**

#### **§ 60075.42. Reconsideration; Procedural Requirements.**

(a) The request for reconsideration shall be signed by the party filing the request or its representative and verified upon oath. The request may only request reconsideration of issues that were raised before the hearing officer and may only be based upon one or more of the following grounds:

- (1) In issuing the order or decision the hearing officer acted without or in excess of his or her powers;
- (2) The order or decision was procured by fraud;
- (3) The evidence received by the hearing officer does not justify the findings of fact;
- (4) The petitioner has discovered new material evidence which the petitioner could not, with reasonable diligence, have discovered and produced at the hearing;
- (5) The findings of fact do not support the order or decision; and
- (6) The order or decision is contrary to applicable law.

(b)(1) Any request for reconsideration shall set forth specifically and in full detail the grounds upon which the party making the request considers the order or decision to be unjust or unlawful and every issue to be considered by the executive officer on reconsideration. The party making the request shall be deemed to have waived all objections, irregularities, and illegalities concerning the proceeding upon which reconsideration is sought other than those specifically set forth in the petition for reconsideration.

(2) The petition for reconsideration will be denied if it contains no more than allegations of the statutory or constitutional grounds for reconsideration, unsupported by specific references to the record and principles of law involved.

(c) When a request for reconsideration or answer thereto has been timely filed, the filing of supplemental requests or answers in response may be granted at the discretion of the executive officer. Parties requesting a copy of the hearing record shall bear the cost of reproduction.

(d) The request for reconsideration may include, and the executive officer may grant, a request that the decision of the hearing officer be stayed pending resolution of the petition for reconsideration.

(e) Within 10 days of being served with notice of a request for reconsideration, a party opposed to the request may file an opposition to the request with the executive officer or the state board secretary, as applicable. The opposition shall be signed and verified under oath by the party or its representative and shall not exceed 6 pages.

NOTE: Authority cited: Sections 39600, 39601, 43028, 43031(a) and 44011.6(m), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Sections 43028, 43031(a) and 44011.6, Health and Safety Code.

#### **REFERENCE**